

WORKING DRAFT - WORK IN PROGRESS

Summary Chart of Special District Election Laws

Prepared by Sheri Scurr, Montana Legislative Services Division

As of September 17, 2013

Row	Special District	Trustee Terms of Office	Election Dates	Voter Qualifications
1	Regional Resource Authority - creation or expansion	Appointed to 2-year and 4-year staggered terms 7-10-110	"The election [to create or expand] must be held in conjunction with a regular or primary election." 7-10-104(1), MCA) See definition of "regular election" at 13-1-101(13)	"Electors residing within the boundaries of a proposed regional resource authority..." 7-10-101(1)
2	Creation of a special district*	Must be "administered and operated either by the governing body or by a separate elected or appointed board as determined by the governing body". 7-11-1021 If governed by a separate board, election or appointment and terms of office are specified by resolution. 7-1-201	"The referendum [to create] must be held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19." 7-11-1011(3)	Registered voter who: (a) resides within the proposed special district, or (b) owns taxable real property in the district. If a voter is not registered in the county conducting the election, the elector must provide proof of registration at least 20-days prior to the election. 7-11-1011(1), (5), and (6)
4	Create and maintain supplemental revolving fund for special improvement district* Issue bonds based on the fund	Not Applicable	Question must be put to the qualified electors at a "general election or a special election held in conjunction with a regular or primary election". 7-12-4243(1)(a)	As used in the section, "qualified electors" means registered electors of the municipality". 7-12-4243(1)(b), MCA)

Row	Special District	Trustee Terms of Office	Election Dates	Voter Qualifications
5	County water and/or sewer districts	<p>"The first regular election for a district shall be held in November of the next odd-numbered year following the formation of the district." 7-13-2234(5). Note: Term of office is 4 yrs and terms are staggered.</p> <p>"The election of directors of the district shall be held every 2 years with the election for local government officials provided for in 13-1-104(2) [odd years]." 7-13-2236(1)</p> <p>"The election of directors of a district located in an unincorporated area may be conducted by mail ballot as provided in Title 13, chapter 19." 7-13-2236(2)</p>	<p>"The election on the question of creating the district shall be conducted, the vote canvassed, and the result declared in the same manner as provided by Title 13 in respect to general elections, so far as it is applicable, except as otherwise provided in this part and part 23." 7-13-221(1)</p> <p>"The board of county commissioners in its discretion may combine in one election the election on the formation of the district, the election of directors, the election on incurring bonded indebtedness, and, if applicable, the vote on the proposed monthly salary for members of the board of directors so that the electors of the district may vote on all of these matters on the same date and at the same time." 7-13-2225</p> <p>"The district shall elect a board of directors. The election must be conducted by mail ballot, as provided in Title 13, chapter 19, or must be held in conjunction with the next regular or primary election." 7-13-2231(1)</p>	<p>Resident or owner of taxable real property within district boundaries. If not registered to vote in Montana, must provide proof of voter registration in another state within 40 days prior to election. 7-13-2212</p> <p><u>Other MCA sections about conduct of elections:</u> 7-13-2241. Filing of petition of nomination. 7-13-2243. Assistance for election administrator. 7-13-2246. Withdrawal of candidacy. 7-13-2256. Canvass of vote. 7-13-2262. Insufficient candidates -- vacancies on board of directors -- appointment of entire board. 7-13-2273. Compensation of members of board -- approval by voters of district.</p>

Row	Special District	Trustee Terms of Office	Election Dates	Voter Qualifications
	Water and/or sewer district - indebtedness		<p>7-13-2323. Election on question of incurring bonded indebtedness. (1) The board of directors shall fix a date upon which an election is held for the purpose of authorizing the bonded indebtedness to be incurred. Except as provided in subsection (2), the election must be conducted by mail ballot, as provided in Title 13, chapter 19, or must be held in conjunction with a regular or primary election.</p> <p>(2) The board may order up to two special elections each year if:</p> <p>(a) there are no bids within the amount of approved bonds;</p> <p>(b) there is an emergency;</p> <p>(c) a directive for a project is received from a government agency; or</p> <p>(d) it is necessary to take advantage of the construction season.</p>	<p>"Every registered elector owning or residing upon real property within such voting precincts, but no others, shall be entitled to vote at the election." (Section 7-13-2325, MCA)</p> <p><u>Other MCA sections:</u> 7-13-2324. Notice of election on incurring bonded indebtedness. 7-13-2327. Entry of bond election results. 7-13-2328. Sufficient vote required to issue bonds.</p>
	Water and/or sewer district - addition of land		"The ordinance must be submitted for adoption or rejection to the vote of the electors in the district and in the proposed addition at a general election, at a special election that is conducted by mail ballot, as provided in Title 13, chapter 19, or at a special election that is held in conjunction with a regular or primary election." (Section 7-13-2341(2), MCA)	"the electors in the district " (Section 7-13-2341(2), MCA)
	Water and/or sewer district - consolidation		"The ordinances must be submitted for adoption or rejection to the vote of the electors in the district at general or special elections held, as provided in part 22 and this part, within 70 days after the adoption of the ordinances." (Section 7-13-2342(2), MCA)	"the electors in the district" (Section 7-13-2342(2), MCA)

Sheri,

What about special districts? There are several that are with the school elections, but there are a number of these scattered throughout the code that may differ. Also, special district trustee terms of office can vary from 2 years to 3 years to 4 years. Below are a couple of examples that we can think of off the tops of our heads:

Fire Districts

7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees' terms of office must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

Hospital Districts

7-34-2118. Term of office. (1) The trustees elected for the first board shall serve for terms:

(a) commencing upon their being elected and qualified; and

(b) terminating 1, 2, and 3 years, respectively, from the first district meeting following their election and until their respective successors are elected and qualified.

(2) Annually after the initial election there may be elected a trustee to serve for a term of 3 years and until a successor is qualified. The term of 3 years commences at the first district meeting following the trustee's election.

Conservation Districts

76-15-312. Term of office and vacancies. (1) The term of office of each supervisor is 4 years, except that the supervisors who are first appointed by the department must be designated to serve for terms of 2 years from the date of their appointment. An elected supervisor holds office until a successor has been elected and has qualified.

(2) A vacancy is created when any of the following events occurs before the expiration of the term of the incumbent:

(a) death;

(b) a determination pursuant to Title 53, chapter 21, part 1, that the incumbent is mentally ill;

(c) resignation;

(d) removal from office;

(e) unexcused absence from three consecutive regular meetings of the board of supervisors;

(f) ceasing to reside in the district;

(g) conviction of a felony or a violation of official duties; or

(h) the decision of a court declaring void the incumbent's election or appointment.

(3) For the purpose of subsection (2)(e), a majority vote of the board of supervisors may excuse a supervisor from attending a meeting.

(4) A vacancy occurring in the office of an elected supervisor must be filled by appointment by the remaining supervisors until the next regular election, when a successor must be elected to serve the unexpired term.

Public Library Districts

22-1-706. Election of board of trustees -- compensation -- removal -- single-member trustee districts. (1) After appointment of the initial members of the board of trustees, all members must be elected by the electors of the public library district.

(2) The **election of members to the board of trustees must be held in conjunction with the annual school elections** held pursuant to 20-3-304.

(3) (a) A candidate for the office of trustee of the public library district must be a resident of the district and must be nominated by petition, signed by at least five electors of the district and filed with the office of the election administrator not earlier than 135 days or later than 75 days prior to the election day.

(b) If the district lies in more than one county, the petition for nomination must be presented to the election administrator whose county contains the largest percentage of territory in the district.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nomination petition for a position. If a nomination petition is not filed for an office, the county governing body of the county containing the largest percentage of the territory in the public library district shall appoint a member to fill the term. A person appointed pursuant to this subsection has the same term and obligations as a person elected to fill the office.

(5) The term of office of an elected board member begins on the date that the board member is elected and qualified. The **term of office of an elected member is 4 years**, except that a simple majority of the members of the first elected board shall serve a term of 2 years, with the minority of the board serving terms of 4 years. The members serving 2-year terms must be selected by lot.

(6) A vacancy in the office of a member must be filled by appointment by the remaining members of the board. The term of the appointed member expires upon the election and qualification of an elected successor or upon the election of a member to fill the unexpired term of the vacant office. The election must be held at the next scheduled school election held pursuant to 20-3-304.

(7) Members of the board of trustees serve without compensation.

(8) A trustee may be removed from office by a court of competent jurisdiction pursuant to state law governing the removal of elected officials. If charges are brought against a trustee and if good cause is shown, the governing body of the county containing the largest percentage of territory in the public library district may suspend the trustee until the charges can be heard in a court of competent jurisdiction.

(9) (a) If the trustees determine that it is in the best interest of the electors of the public library district, they shall:

(i) propose the creation of a single-member trustee district plan with districts that are as compact in area and as equal in population as possible;

(ii) schedule and hold a public hearing on the plan; and

(iii) publish a notice of the public hearing as provided in 7-1-2121.

(b) After the public hearing is held, the trustees may amend, revise, approve, or disapprove the proposed plan. If the plan is adopted, the trustees shall publish notice of its adoption as provided in 7-1-2121.

(c) All successors to the board of trustees must be elected in accordance with the adopted single-member trustee district plan, and the election of each member must be submitted to the electors of the trustee district in which the candidate resides.

-- Shantil (MACo)